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ABSTRACT

This report discusses the results of a survey of 32 states and the Department of Defense Dependent Schools (DODDS) regarding the reevaluation of students who are classified as having a disability under the Individuals with Disabilities Education Act (IDEA). It summarizes provisions governing reevaluation in IDEA, describes the methodology of the research, and provides the survey's findings. Results indicated that at least 31 states and DODDS are either in the process of or are planning to develop policy, procedures, and/or guidelines related to reevaluation under the 1997 amendments to IDEA. One state has completed all revisions. The most common areas being addressed in policy development are the situations warranting reevaluation, exit criteria, family input, and frequency of reevaluation. As revision and development takes place, states and territories would like to review examples of policies, procedures, and guidelines from other states on reevaluation. The area most in need of clarification is the parental involvement section of the regulations. (CR)

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NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION, INC.

QUICK TURN AROUND

PROJECT FORUM

QTA: A BRIEF ANALYSIS OF A CRITICAL ISSUE IN SPECIAL EDUCATION

ISSUE: REEVALUATION

MAY 1999

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Quick Turn Around

Project FORUM

QTA - a brief analysis of a critical issue in special education

Issue: Reevaluation Date: May 1999

Purpose

This QTA is a brief analysis of survey data collected from thirty-two (32) states and the Department of Defense Dependent Schools (DODDS) regarding the reevaluation of students who are classified as disabled under the Individuals with Disabilities Education Act (IDEA).

Although there are many factors to consider when making decisions about educational placement, this QTA focuses solely on the reevaluation process. It is important to note that initial evaluations, eligibility determinations, individualized education programs and reevaluations are all intricately related and influence decision-making regarding educational placement.

Reevaluation has emerged as a controversial issue because of questions raised about whether reevaluation should require as extensive testing as the initial evaluation. To many educators, the reevaluation process is unnecessarily time consuming.

Review of Statute

Although reevaluation was not addressed in the IDEA statute prior to the 1997 Amendments, regulations for the Act covered this topic. In an effort to clarify a variety of issues surrounding the reevaluation process, the 1997 amendments to IDEA referenced reevaluation directly in the section on evaluations. It states: *"A local educational agency shall ensure that a reevaluation of each child with a disability is conducted if conditions warrant a reevaluation or if the child's parent or teacher requests a reevaluation, but at least once every 3 years..."* [20 U.S.C. Sec. 1414(a)(2)(A)]. Subsection (b)(1) requires the local education agency (LEA) to provide *"notice to the parents...that describes any evaluation procedures [the] agency proposes to conduct."*

In regard to evaluation and reevaluation procedures, the law specifies that the LEA must *"use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent...including information related to enabling the child to be involved in and progress in the general curriculum...not use any single procedure as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child;...[and the LEA must] assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors"* [20 U.S.C. Sec. 1414(b)(2)(A)(B)& (C)].

The law goes on to describe that tests and other evaluation materials must be selected and administered *"so as not to be discriminatory on a racial or cultural basis; and are provided and administered in the child's native language or other mode of communication...[and must be] validated for the specific purpose for which they are used; are administered by trained and knowledgeable personnel; and are*

administered in accordance with any instructions provided by the producer of such tests."[20 U.S.C. Sec. 1414(b)(3)(A)& (B)].

Once the tests and other evaluation materials have been administered and the child *"is assessed in all areas of suspected disability"* [20 U.S.C. Sec. 1414(b)(3)(C)], the parent and a team of qualified professionals determines whether the child continues to have a disability. A copy of the reevaluation report and documentation stating the determination of eligibility will be given to the parent.

However, it is important to note that a child should "*not be determined to be a child with a disability if the determinant factor for such determination is lack of instruction in reading or math or limited English proficiency.*" [20 U.S.C. Sec. 1414(b)(5)].

Survey of States and Non-state Jurisdictions

As part of Project FORUM's cooperative agreement with the U.S. Department of Education's Office of Special Education Programs (OSEP), states and non-state jurisdictions were sent a survey in July 1998 inquiring about their regulations, policies, procedures, and guidelines on reevaluation. Although states are expected to be in compliance with both evaluation and reevaluation procedures, this document is limited in scope to reevaluation.

Respondents from the state education agencies (SEAs) were asked to comment on any plans to develop or revise policy related to reevaluation as a result of the 1997 amendments to IDEA, and to give input regarding recent or anticipated changes in areas addressed in the law. The survey also included a question regarding technical assistance that would be useful in the process of policy development on reevaluation.

Information was obtained from 32 states and the Department of Defense Dependent Schools (DODDS). After the initial survey data were compiled and analyzed, a follow-up interview was conducted with representatives from four states (AR, NC, OH, and OR). These states were chosen because they were at varying stages of the revision process. Follow-up interviews, conducted August through December 1998, focused on how states plan to address the areas under consideration for change—examples or details of what states are currently doing and the people involved in the design and implementation of changes.

Status of Reevaluation Policies

All 33 respondents reported that they currently have regulations, policies, procedures, or guidelines related to reevaluation. Only 2 of the 33 (AR and NJ) are not planning to make policy changes because state regulations have already been revised to reflect the 1997 amendments to IDEA.

Although Arkansas state policy is already aligned with the new amendments, the state recently designed a process to guide LEAs on the issue of reevaluation. As part of this process, a committee of evaluators determines whether there is sufficient information to make a decision about an appropriate program for an individual student. The process gives consideration to the nature of the disability, as well as the recency of available data. For example, a student identified as mentally retarded would not need the same type of reevaluation as a student who has emotional disturbance because mental retardation is not expected to change significantly over the years, whereas emotional disturbance may be treated and resolved.

New Jersey's state regulations incorporating the new statutory requirements of the 1997 amendments to IDEA were adopted on June 3, 1998 and became effective on July 6, 1998. The following areas regarding reevaluation were included as part of the state revision: cultural sensitivity, sources of information,

parent input, general education input, situations warranting reevaluations, frequency of evaluation, and parent notification.

Idaho, North Carolina, Wisconsin and DODDS have done preliminary work on revisions and plan to develop them further following issuance of the final federal regulations.

North Carolina has revised state procedures on reevaluation to include parents on the IEP team, and to ensure written consent and parental notification. In addition, the state procedures for reevaluation include all the topics covered in the FORUM survey (*see page 4 for topics*). North Carolina has sent its new written policies to the State Board of Education for input, and is currently addressing reevaluation issues through regional meetings, staff development activities and technical assistance.

DODDS modified their reevaluation process prior to the reauthorization of IDEA and believes it complies with the 1997 amendments. Wisconsin state law was amended in May, 1998 to conform to the recent amendments and to require adherence to the proposed federal regulations. This action eliminated the need for state rules on reevaluation.

Some states are considering making changes to their administrative rules for special education to comply with the 1997 amendments to IDEA. For example, Georgia and Michigan will do this once the federal regulations are finalized, resulting in state rules that contain the federal language pertaining to reevaluation.

Illinois will make formal changes in the rules for parent/family input and notification, frequency of evaluation, and the sources of evaluation information. Illinois plans to address each of these areas through staff development. Tennessee is also providing state-wide staff development, and will continue to do so while waiting for the final federal regulations. When these are released, Tennessee's policies and procedures will be rewritten to address all changes in the law.

Policy Revision Process

States are providing guidance to local districts throughout the policy revision process. Following are some state examples of this process:

- North Carolina has enlisted staff and regional consultants to help revise its procedures on reevaluation.
- In Arkansas, the recently implemented reevaluation process was developed by a committee of local evaluators and special education supervisors chaired by a staff member from the Deparment. The local staff drafted guidelines and sent them to a committee at the Arkansas State Department of Education for review.
- In Ohio, statewide committees comprised of practitioners are revising model policies and procedures that will be presented through professional development opportunities.

Reevaluation Areas Addressed

The survey addressed nine specific topics related to reevaluation, and asked whether changes had been made or are anticipated in these areas. The following nine topics were chosen because they are addressed in the 1997 amendments to IDEA:

- Cultural sensitivity
- Sources of information
- Parent/family input
- General education input
- Situations warranting reevaluation
- Exit criteria
- Frequency of reevaluation
- Parent/family notification
- Personnel development

"Technical Assistance" (TA) also emerged as an issue among respondents because SEAs often use TA methods to communicate with local districts on changes and clarifications regarding the law.

The Team

The most significant activity taking place is in the area of participant involvement. States are making and proposing changes that affect *who* must be involved in the reevaluation process, such as parents and general educators.

Twenty-two (22) respondents plan to address parent/family input and notification in their revisions. Oregon plans to work with the Parent Training and Information (PTI) Centers to inform, educate, and encourage parent involvement. In some states, such as Ohio, model parent notification materials and procedures are being distributed to local districts by the SEA. Parents are becoming active participants in the reevaluation process, from beginning to end, according to Ohio. Administrators, teachers and parents will all be included in the reevaluation process, and shared involvement will be heavily monitored, according to survey respondents.

Participation of general educators is being reviewed by 21 of the survey respondents. In Ohio, the general educator is one of the team members brought together to provide information and suggest strategies to meet the needs of students with disabilities. According to survey results, this is a common trend.

Sources of Information

The sources of information for the reevaluation and how this information is used are issues under examination by 21 of the respondents. Potential sources are: IEPs; teacher, school, and district assessment information; family input; observations; teacher data; and targeted assessments used to gather other necessary data. Arkansas established guidelines for assessing data on which to base reevaluation. Oregon is reexamining the need for new medical data at the time of reevaluation to focus instruction and services.

Situations Warranting Reevaluation

Of those responding to the survey, 17 are considering what situations warrant reevaluation. Requests for a reevaluation may occur when there is a disagreement between a child's family and school staff about the appropriate educational intervention or services needed by the child. If additional testing is not necessary to reestablish eligibility or write an appropriate IEP, a child need not be tested.

The annual review process is already in place as one way to monitor the child's educational performance, including involvement and progress in the general curriculum. The results of the regularly scheduled reevaluation, conducted every three years, can be part of the annual review. Therefore, only unique circumstances would warrant reevaluation beyond the usual three-year cycle; for example, when a teacher or parent questions the appropriateness of the IEP because a student's behavior interferes substantially with the educational process or when a student is progressing much faster or slower than what was expected.

Frequency of Reevaluation

Frequency of reevaluation is being addressed by 16 of the respondents. Pennsylvania is proposing that reevaluation shift from a two-year to the mandated three-year cycle for all students except those who are mentally retarded (as per court order). Other states are moving beyond the three-year reevaluation mandate toward continuous reevaluation. With a focus on improved instruction, Ohio stresses the need for on-going evaluation.

Exit Criteria

As part of their review of reevaluation procedures and guidelines, nearly half of those responding to the survey (n=15) are examining the criteria used to exit students from special education programs. Reevaluation is needed when a parent or teacher believes that a child no longer needs specialized instruction. For example, a student who is hard of hearing might exit special education after receiving a hearing aid.

Cultural Sensitivity

Of all the respondents, 12 plan to address the topic of cultural sensitivity in their state regulations, guidelines, or other written policies on reevaluation. Ohio is trying to infuse cultural sensitivity into all their activities through staff development. Although Arkansas has already addressed the issue of cultural sensitivity in regard to reevaluation, they have emphasized the importance of making sure that there are enough language interpreters available to involve parents in a meaningful way.

Personnel Development

Personnel development was reported as an issue related to reevaluation by 7 of the 33 respondents. Those states reviewing personnel development activities are addressing specific information and skill building on intervention-based assessment. Personnel development is provided to reevaluation teams by special educators, Regional Resource Center (RRC) staff, faculty from Institutions of Higher Education (IHE), and other appropriate experts in the field.

Other Reevaluation Issues

Only 5 of the 33 respondents described other considerations or changes related to reevaluation that would be addressed in the near future. Oregon is concerned about the length of time that existing evaluation information can be considered valid and is providing guidance on this issue. The state will give much authority to the IEP teams in making decisions, but districts will be held accountable through heavy sanctions for abusing this authority.

Permission or consent to reevaluate is being addressed by several states. Arkansas reinstated a policy it had been using until a few years ago, which once again requires parental consent for reevaluation. Colorado is planning to make changes related to procedures for obtaining permission for reevaluation, as required by the 1997 amendments to IDEA. Kentucky and Connecticut are both reviewing issues related to consent for reevaluation. A few states would like to see further clarification in the federal statute regarding parental consent. Although consent is needed before conducting a reevaluation the Act states that "*informed parent consent need not be obtained if the local education agency can demonstrate that it had taken reasonable measures to obtain such consent and child's parent has failed to respond.*" [20 U.S.C. Sec. 1414(4)(c)(3)].

Technical Assistance to LEAs

Some states are addressing issues of reevaluation by providing technical assistance to local districts. Oregon has a paper consisting of guiding questions that is being used to communicate with administrators, teachers and parents in the decision-making process statewide. The state agency also poses a set of questions that are answered by the IEP team to help determine whether new evaluation information is needed. In North Carolina, regional meetings, staff development and technical assistance are all being used to address changes in reevaluation procedures.

Information Needs of the SEAs

When asked what type of assistance would be useful to states in the policy development or

revision process related to reevaluation, twenty-four (24) of the 33 survey respondents requested some type of information or assistance. Nine states asked for examples of what other states are doing in response to the 1997 amendments to IDEA in the area of reevaluation (e.g., standard policies and procedures, guidelines, or revised regulations from states that have already been through the revision process).

Other states indicated an interest in receiving technical assistance from regional resource centers (RRCs) on particular issues. For example, Oklahoma reported that a brief videotape addressing the new provisions and considerations for reevaluation under IDEA would be helpful, while Maryland requested current research information regarding assessment and evaluation as they relate to identification of disabilities. New Jersey added that the RRC was "extremely helpful" in its "review of the regulations in draft form."

The area most in need of clarification was the *parental involvement* section. Information requests ranged from 1) how to make parental involvement meaningful while remaining sensitive to busy schedules to 2) how to determine the point at which reasonable measures have been taken to receive parental consent to conduct a reevaluation.

Other information needs include:

- Samples of informational materials for parents and school personnel
- Menu or checklist of items to be considered during the reevaluation process (e.g., sources of information)
- List of persons involved in the reevaluation process (e.g., IEP team members, parents)
- Guidance in streamlining the evaluation process without violating existing regulations (with examples)
- Questions and answers from OSEP on reevaluation and eligibility issues
- Effective ways to align the reevaluation process with the child's instructional needs (rather than eligibility)
- Current research information regarding assessment and evaluation as they relate to identification of disabilities.

Concluding Remarks

At least 31 states and DODDS are either in the process of or planning to develop policy, procedures and/or guidelines related to reevaluation that the 1997 amendments to IDEA. One state has completed all revisions. The most common areas being addressed in policy development are the situations warranting reevaluation, exit criteria, family input, and the frequency of reevaluation. As revision and development takes place, states and territories would like to review examples of policies, procedures and guidelines from other states on reevaluation.

This brief analysis serves to provide the federal government, states and territories with a quick overview of the status of policy development in the area or reevaluation. States may wish to contact other states directly to confer with them on the progress of their efforts and the challenges they have encountered. Future technical assistance activities and documents will be guided by this brief analysis.

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